

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JERRY WAYNE JERGER, Jr, #2166458, §
§
Petitioner, §
§
v. § Case No. 6:21-cv-099-JDK-KNM
§
DIRECTOR, TDCJ-CID, §
§
Respondent. §

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner Jerry Wayne Jerger, Jr., a prisoner of the Texas Department of Criminal Justice proceeding pro se, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On August 2, 2022, Judge Mitchell issued a Report recommending that Petitioner's motion to amend (Docket No. 29) be granted, the petition be denied on the merits, this action be dismissed with prejudice, and that a certificate of appealability be denied. Docket No. 31. A copy of this Report was sent to Petitioner, who has not filed written objections.

This Court reviews the findings and conclusions of the Magistrate Judge de novo if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Petitioner did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 31) as the findings of this Court. Petitioner's motion to amend (Docket No. 29) is **GRANTED**. The petition for habeas corpus is hereby **DENIED** and **DISMISSED** with prejudice. The Court **DENIES** a certificate of appealability. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **30th** day of **August, 2022**.



JEREMY D KERNODLE
UNITED STATES DISTRICT JUDGE